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IN THE UNITED STATES  
PATENT AND TRADEMARK OFFICE

## PATENT APPLICATION

Applicant(s): John S. Hendricks et al.  
Serial No.: 09/162,768  
Examiner: Koenig, Andrew Y.  
Filed: September 30, 1998 Group Art Unit: 2611  
Confirmation #: 9228 Case: 5315 (SEDN/5315)  
Title: AUDIO PROGRAM RECEPTION TERMINAL FOR TELEVISION  
DELIVERY SYSTEM

Mail Stop Issue Fee  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING OR TRANSMISSION	
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Date	<u>9-20-05</u> <u>C. Wilson</u>

S I R:

Comments on Statement of Reasons for Allowance

In response to the Notice of Allowance mailed July 18, 2005, please consider the above-identified patent application as follows.

The Commissioner is authorized to charge any fees due, including extension of time and excess claim fees, to counsel's Deposit Account No. 20-0782/SEDN/5315.

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### Comments on Statement of Reasons for Allowance

The Applicants respectfully thank the Examiner for the indication of allowable subject matter in the Notice of Allowability mailed on July 18, 2005.

Regarding the "Reasons for Allowance" recited in the Notice of Allowability, the Applicants respectfully note that the present Application is allowable for the specific language contained in the claims as presented in the response filed on 5/24/05 (except for the claims cancelled or amended by the Examiner in the Notice of Allowability, said cancellations and amendments are agreed to by the Applicants). In particular, although the Examiner has recited the following as a reason for allowance (emphasis added):

"Prior art of record fails to teach or reasonably suggest a first tuner coupled to a set top terminal that receives both television program signals and digital audio signals (wherein the digital audio signals represent audio programs) from a television program delivery system and a hardware upgrade with a second tuner that tunes the selected audio program based on a user selection";

the Applicants respectfully note that allowed claim 1, for example, specifically recites (emphasis added):

"wherein the set top terminal comprises a first tuner coupled to a receiver that receives television program signals and the digital audio signals from a television program delivery system".

Thus, the set top terminal comprises a first tuner coupled to a receiver.

Additionally, the Examiner has indicated the following regarding allowed claim 80:

"Whereas claim 80 does not specifically recite a hardware upgrade, claim 80 recite, 'means ... for processing the digital audio signals representing the audio programs, where the means for processing compresses a second means for tuning a selected audio program.' As per 35 USC 112-sixth paragraph, this limitation invokes the corresponding structure, which is the level D hardware upgrade (means ... for processing the digital audio signals representing the audio programs), wherein the hardware upgrade comprises a tuner that tunes the selected audio program."

However, the Applicants wish to clarify that the language of claim 80 includes an embodiment described in the Specification as follows (emphasis added below):

"In an alternative embodiment the set top terminal 220 includes all the features of the Level D upgrade and, therefore, no upgrade is necessary. Those skilled in the art will recognize other alternatives that allow digital audio reception." (page 75, lines 8-10)

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Thus, one embodiment included within the scope of allowed claim 80 is a set top terminal having both the "means for tuning to and receiving the audio/visual programs and the audio programs from a television program delivery system" and the "second means for tuning to a selected audio program" (wherein the second tuning means is interpreted as the tuner described as part of the Level D hardware upgrade in the Specification). However, as described in the above-recited portion of the Specification, such an embodiment does not need to have a separate hardware upgrade, but instead may have the second tuning means built into the set top terminal.

If the Examiner believes that there are any unresolved issues, it is respectfully requested that the Examiner telephone Mr. Eamon J. Wall or Stephen Guzzi at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

9/20/05

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